

Application No. 10/052,441
Amendment dated August 8, 2006
Reply to Office Action of May 8, 2006

AUG 08 2006**REMARKS/ARGUMENTS**

Claims 1-23 are pending in the application. Claims 1-23 are rejected.

Claim Rejection Under 35 U.S.C. § 103(a)

Claims 1-3, 5, 8-10, 12, 15-20, 22 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,681,390 (hereinafter Fiske) in view of U.S. Patent 6,438,748 (hereinafter Gard). Claims 4, 11 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiske in view of Gard and further in view of U.S. Patent No. 5,974,454 (hereinafter Apfel). Claims 6, 7, 13 and 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiske in view of Gard and further in view of U.S. Patent No. 6,493,594 (hereinafter Kraml).

Gard generally teaches converting a message from a format compatible with an older version of software to a format compatible with an upgraded version of the software – “according to the present invention it is possible to convert messages according to an upgraded system.” Gard, column 2, lines 21-22. An aspect of Gard consists of maintaining a list of which software units have been upgraded and which have not. The list is used to determine whether or not a message needs to be converted in order to be compatible with a particular software unit. *See* Gard column 8, lines 37-41.

The Office action specifically quotes column 8, lines 37-41: “...to determine for each message whether a conversion from an old to a new format...a conversion task...from a not yet updated software unit...” The Office Action asserts that this disclosure teaches the following limitation of applicants’ independent claim 1:

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validating the performance of the upgraded first software component, said validating comprising translating messages originating at the first software component from an upgraded version format to a current version format.

This section cited in the Office Action, however, does not teach, suggest, or disclose using the conversion for the purpose of *validating* the performance of the upgrade. In fact, Gard does not appear to teach any sort of validation technique. Gard only teaches determining whether a message needs to be converted from an old format to a new format (or vice versa) in order to achieve compatibility so that the upgrade process can take place without disturbing system performance. *See* Abstract and column 9, lines 7-11.

Additionally, the Office Action cites to Gard column 2, lines 5-9 as providing a motivation to combine, but the Office action does not properly characterize the teachings of this section. The section of Gard cited by the Office Action states that “the object of the invention is to achieve a smooth upgrade of software in computer based systems.” The reference, however, teaches that this goal is accomplished by upgrading the system while it is running, as opposed to other options such as shutting the system down or taking the system off-line in order to perform the upgrade. Nowhere does Gard teach that a “smooth” upgrade is achieved through any sort of validation technique. Therefore, the Office Action does not present a proper motivation to combine.

Accordingly, for at least all the reasons presented, applicants assert that independent claim 1 is not rendered obvious by Fiske in view of Gard, or by any other reference or combination of references cited in the Office Action. Applicants further assert that independent claims 9 and 18 contain limitations similar to claim 1, and are, therefore, also allowable for at least all of the same reasons. Dependent claims 2-8, 10-17, and 19-23 are allowable as

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depending from allowable independent claims. Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

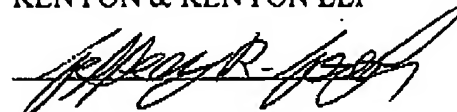
For at least all the above reasons, the Applicants respectfully submit that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,
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